



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/967,053	09/27/2001	Guillermo Ruizandrade	3COM-3654.BCG.US.P	4917

7590 07/20/2005

WAGNER, MURABITO & HAO LLP
Third Floor
Two North Market Street
San Jose, CA 95113

EXAMINER

AMSBURY, WAYNE P

ART UNIT	PAPER NUMBER
----------	--------------

2161

DATE MAILED: 07/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/967,053

Applicant(s)

RUIZANDRADE, GUILLERMO

Examiner

Wayne Amsbury

Art Unit

2161

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 September 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

CLAIMS 1-24 ARE PENDING

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-24 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter that was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

One skilled in the art would not know how to make and use a system requiring the step of: *immediate chronologically track* a version. This phrase is not supported in the disclosure; in particular the term *immediately* does not appear in the disclosure. The term *immediately* is one of very broad meaning that varies over a wide chronological range in applications as divergent as cosmology and particle physics, and has no specific meaning within the database art.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is not clear how to determine the scope of *immediate chronologically track*. As noted above, this phrase has no specific meaning determined by the disclosure or the art of the invention, and is not limited within the claims. Thus it is given no patentable weight in the examination with respect to prior art.

4. Applicant's arguments filed 6/8/05 have been fully considered but they are not persuasive.

The arguments focus on the meaning of *immediate chronologically track*. As noted above, this phrase is given no patentable weight. The response also faults Allen for the use of distributed "weakly consistent replicas", but the rejection is directed to the local replica system, which is as immediate with respect to updating its versions as is the invention as claimed.

5. The rejections are maintained from the previous rejection, but incorporated below for ease of reference.

Claims 1-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Allen et al (Allen), US 5,675,802, 7 October 1997.

Art Unit: 2161

As to claim 1, Allen is directed to a version control system for geographically distributed software development, including a method for maintaining software product version tracking in a client/server system [FIG 1; SUMMARY]. The local replica system **18** corresponds to a server for remote clients, which stores a plurality of versions within a single database [COL 3 lines 36-64]. This database system traverses a plurality of directories exemplified by the paths of branches of target files [FIG 3-6]. A single user can modify a local replica at any one time [COL 3 lines 58-61], and to store new branches and/or new versions in the local replica [Col 3 line 65 to Col 4 line 5]. Allen tracks changes in a weakly consistent form [COL 3 lines 11-27]. This requires chronological tracking [COL 2 lines 43-67, COL 6 lines 49-58, and elsewhere].

As to **claim 2**, the mater enforcer **34** and exchanger **40** coordinate new versions and make them visible to the remote clients [COL 3 line 65 to COL 4 line 5].

As to **claim 3**, the paths for versions are metadata that are used to track and access versions [COL 4 lines 17-34].

As to **claims 4-7**, the tree tracking structures of Allen are depicted in FIG 3-6 and [COL 6 lines 49-58]. Allen provides for viewing versions, which inherently requires a GUI [COL 6 lines 17-28].

As to **claims 8 and 9**, Allen provides for the use of both wide-area networks and local area networks [FIG 4; COL 1 line 64 to COL 2 line 9; COL 6 lines 29-48]. **Official Notice** is taken that the Internet was a well-known wide-area network at the time of the invention, used for servicing geographical remote sites.

The elements of **claim 10-24** are rejected in the analysis above and these claims are rejected on that basis.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wayne Amsbury whose telephone number is 571-272-4015. The examiner can normally be reached on M-F 6-18:30 FIRST WEEK.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic can be reached on 571-272-4023. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

WPA


WAYNE AMSBURY
PRIMARY PATENT EXAMINER